



Office of the City Manager

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February 29, 2008

Mr. Bruce Wolfe, Executive Officer
California Regional Water Quality Control Board
San Francisco Bay Region
1515 Clay Street, Suite 1400
Oakland, CA 94612

Dear Mr. Wolfe:

SUBJECT: Municipal Regional Stormwater Permit Tentative Order Comments

This letter provides additional comments on the Municipal Regional Permit (MRP) Tentative order from the City of Fremont and supplements an earlier letter sent by Mayor Bob Wasserman. Please distribute a copy of these comments to the Regional Water Quality Control Board (Water Board) members and include the comments in the record of this administrative proceeding.

Fremont supports the detailed comments and permit language changes requested by the Alameda Countywide Clean Water Program. We also concur with the comments submitted by the Bay Area Stormwater Management Agencies Association (BASMAA). Fremont agrees with their assessment that local agency concerns have not been addressed in the Tentative Order despite extensive written comments submitted on earlier MRP drafts, constructive alternate language proposals submitted by local agencies and numerous discussions between local agencies and Water Board staff. As a result, the Tentative Order contains overly prescriptive requirements, many of which will be costly to municipalities while providing questionable water quality benefit. The lack of flexibility will result in municipalities diverting limited resources toward unproductive tasks, which undermines our mutual goal of improving water quality.

We are specifically concerned about the following areas:

- Record Keeping and Reporting – The “streamlined” reporting requires over 100 pages of detailed information before attachments. This level of detail is onerous and several times more effort than currently required. This imposes an enormously burdensome level of reporting with questionable water quality benefit and will divert limited local agency resources from more productive tasks. Fremont requests that you direct Water Board staff to work with local agencies to significantly revise and reduce the reporting requirements. Any record keeping and reporting that is not essential to direct water quality improvement should be eliminated.
- Expanded New and Redevelopment Requirements - The tentative order lowers the size threshold of projects requiring storm water treatment from 10,000 to 5,000 square feet and requires structural treatment controls for arterial road reconstruction projects within the existing right-of-way. The total land area covered by projects less than 10,000 square feet is very small



(less than 1% of total land development) but will require a disproportionate amount of public resources for inspection, implementation of maintenance agreements and enforcement if treatment measures are not maintained properly. It is wasteful of public funds to dedicate high levels of public resources toward small devices, which represent a minimal amount of total land development and are of questionable usefulness. Regarding roads, there are severe logistical constraints when trying to incorporate stormwater treatment controls within an existing roadway and this will add to the complexity and cost of street maintenance projects. This will place a significant burden on already under-funded municipal street maintenance programs. These two requirements were proposed during Alameda County's last permit re-issuance and were strongly opposed. They were not included in the permit as they were deemed to be non-productive and an inefficient use of limited resources. Now, Water Board staff has put them back in the Tentative Order. We request that the Tentative Order be revised to keep the current 10,000 square foot threshold and the current exemption for arterial road reconstruction projects within the existing right-of-way,

- Trash Reduction – In order to use limited resources most effectively, local agencies need flexibility in determining which trash problems are best addressed with enhanced trash management devices vs. trash capture devices. The requirement to install structural control measures to treat all runoff from at least 5% of the land area of every municipality is not appropriate for all municipalities and penalizes jurisdictions with large land areas that may not have severe litter problems. The requirement to first conduct enhanced litter control in areas where structural control measures will be ultimately installed should be removed. Otherwise, jurisdictions will have to invest in equipment, staff and other resources to implement enhanced trash control measures, which may prove unnecessary or duplicative in areas ultimately treated with trash capture devices. In addition, the requirements of enhanced litter control measures (e.g. parking restrictions and weekly street sweeping) are too prescriptive and will be economically burdensome to local agencies. The lack of flexibility and prescriptive requirements will make programs more costly and less effective. Jurisdictions will have to divert limited resources to tasks that may not improve water quality. We request that the Tentative Order be revised to allow alternative approaches to meeting the trash reduction goals and eliminate mandated structural controls.
- Water Quality Monitoring – The Tentative Order requires a significant increase in monitoring and technical studies. Many of these items are not directly related to urban runoff. While these studies may be worthwhile for informing comprehensive land use and watershed management efforts they are not appropriate in an NPDES permit. In addition, some methods and approaches prescribed in the Tentative Order are inconsistent with good monitoring design and are poorly linked to specific monitoring objectives. The Alameda Countywide Clean Water Program is proposing specific corrections to achieve the monitoring objectives through sound scientific approaches. We request that these corrections be incorporated into the Tentative Order.
- Stormwater Discharges to Sanitary Sewer – The Tentative Order specifies circumstances where stormwater must be discharged to the sanitary sewer. The Water Board is imposing these

requirements on local agencies without engaging the sanitary sewer agencies. Fremont's sanitary sewer agency, Union Sanitary District is unable to take stormwater flows due to capacity concerns. This is likely to be an issue for other local agencies as well. These requirements should be eliminate from the Tentative Order.

- Street Sweeping – The Tentative Order requires local agencies to designate high, medium and low frequency street sweeping areas based upon parameters specified in the Tentative Order and sweep those areas at least twice per month, once per month, or twice per year, respectively. There is also a provision that allows a jurisdiction to continue its existing street sweeping effort if it results in an equivalent or greater street sweeping frequency. Fremont's street sweeping program consists of monthly street sweeping on all public streets. The fees that fund the City's street sweeping program are based upon the premise that all areas of the City receive equivalent service. We believe this program meets the Tentative Order requirements since it provides for an overall street sweeping effort that is greater than specified in the Tentative Order. Please confirm that our interpretation is correct.
- City and County representation on the Water Board - Fremont is concerned with the lack of City and County representation on the Water Board. The Water Board currently has three vacancies, two of which are for representatives of local governments. The requirements of the Tentative Order represent a potential cost of several hundred million dollars for local governments. Stormwater programs have relatively limited budgets and face significant procedural and political restrictions to increasing budgets. This burden should not be placed on local government in the absence of local government representation on the Water Board.

Fremont is committed to protecting stormwater quality with innovative and cost-effective programs. We urge you to incorporate the permit changes requested in order to ensure that local agencies achieve the maximum water quality benefit with the resources available. Thank you for your consideration of these comments.

Sincerely,



Fred Diaz
City Manager

cc: John Muller, Chair, San Francisco Bay Regional Water Quality Control Board
William Peacock, San Francisco Bay Regional Water Quality Control Board
Shalom Eliahu, San Francisco Bay Regional Water Quality Control Board
Terry Young, San Francisco Bay Regional Water Quality Control Board
Jim McGrath, San Francisco Bay Regional Water Quality Control Board
Thomas Mumley, Asst. Exec. Director, San Francisco Bay Regional Water Quality Control Board